

IN RE: PETITION FOR ZONING VARIANCE  
SE/Corner Reisterstown Road  
at Delight Road  
(11502-11510 Reisterstown Road)  
4th Election District  
3rd Councilmanic District  
Harvey E. Marshall  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 92-255-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 138 parking spaces in lieu of the required 230 spaces for a proposed restaurant addition in accordance with Petitioner's Exhibit 1.

The Petitioner, Harvey E. Marshall, appeared, testified and was represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petitioner was David S. Thaler, Professional Engineer, Robert Barrett, Ted Julio, Martin Smith, and Eula Marshall, wife of the Petitioner. There were no Protestants.

Testimony indicated that the subject property, located at the intersection of Reisterstown, Nicodemus and Delight Roads and known as 11502 through 11510 Reisterstown Road, consists of a gross area of 2.64 acres and is split zoned B.L., B.L.-C.N.S., and D.R. 3.5. Said property is improved with a restaurant/carry-out business, two office buildings and a storage building as more particularly described on Petitioner's Exhibit 1. The Petitioner, Harvey Marshall, is the owner and proprietor of the subject restaurant, known as Captain Harvey's, which is a family-run business that has operated from this location for many years. The Petitioner is desirous of constructing a 1,416 sq.ft. addition to the existing carry-out facility to provide restrooms for customers and employees as well as additional

office and carry-out space for the restaurant. The requested variance is necessary as a result of the proposed addition to the restaurant due to the fact that additional parking must be provided in order to meet zoning requirements. The cumulative testimony of all those present was that there has always been adequate parking on the subject property, even at times when the restaurant is filled to capacity. Further testimony indicated that the subject property has been granted several parking variances in the past. In support of his request, Petitioner argued that the small addition that is being added to the restaurant requires only a small amount of additional parking and that to require strict compliance would result in practical difficulty and unreasonable hardship.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R.

and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 7th day of February, 1992 that the Petition for Zoning Variance from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 138 parking spaces in lieu of the required 230 spaces for a proposed restaurant addition in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) In the event that the Petitioner, when applying for a building permit for the proposed addition, is required pursuant to the permit process to eliminate any existing parking spaces depicted on Petitioner's Exhibit 1, then Petitioner shall relocate any eliminated spaces elsewhere on the subject site.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

Baltimore County Government  
Zoning Commission  
Office of Planning and Zoning

State 113 Courthouse  
404 Washington Avenue  
Towson, MD 21204

(410) 887-4386

February 7, 1992

Newton A. Williams, Esquire  
210 W. Pennsylvania Avenue, Suite 700  
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE  
SE/Corner Reisterstown Road and Delight Road  
(11502-11510 Reisterstown Road)  
4th Election District - 3rd Councilmanic District  
Harvey E. Marshall - Petitioner  
Case No. 92-255-A

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: People's Counsel

File

Mr. Harvey Marshall  
11510 Reisterstown Road, Owings Mills, Md. 21117

ORDER RECEIVED FOR FILING

Date 2/7/92  
By [Signature]

ORDER RECEIVED FOR FILING

Date 2/7/92  
By [Signature]

- 2 -

- 3 -



## Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6.A.2 TO PERMIT 138 PARKING SPACES IN LIEU OF THE REQUIRED 230 SPACES.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

*Petition necessary to provide for additional storage and restrooms for carry out section. No additional room on site for parking.*

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):

HARVEY E. MARSHALL  
(Type or Print Name)  
Harvey E. Marshall  
Signature

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

11510 Reisterstown Rd.  
Address  
Owings Mills, Md. 21117  
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

Phone No.

ESTIMATED LENGTH OF HEARING AVAILABLE FOR HEARING

ALL MON./TUES. - NEXT TWO MONTHS

REVIEWED BY: LG DATE 2/12/92

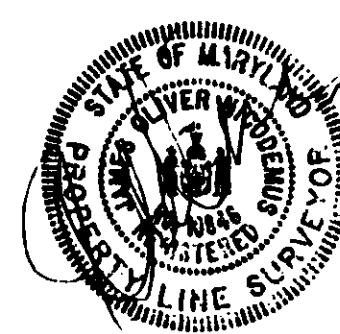
#### DESCRIPTION TO ACCOMPANY ZONING VARIANCE PETITION 11502-11510 REISTERSTOWN ROAD

Beginning for the same at a point on the westerly right-of-way line of Reisterstown Road (Maryland Route 140) which point is south 90 feet, more or less, from the centerline of Delight Road; thence, binding upon the said westerly right-of-way of Reisterstown Road, South 35 42'12" East 381.65 feet to a point; thence, South 45 08'48" West 238.21 feet to a point; thence, North 38 54'48" West 90.24 feet to a point; thence, South 45 08'48" West 14.86 feet to a point; thence, North 35 42'12" West 190.13 feet to a point; thence, North 67 36'22" West 47.00 feet to intersect the southerly right-of-way line of Delight Road, thence, binding upon the southerly right-of-way line of Delight Road, North 28 47'24" East 122.16 feet to a point; North 61 12'36" West 10.00 feet to a point; North 28 47'24" East 47.60 feet to a point; South 61 12'36" East 10.00 feet to a point; North 28 47'24" East 108.48 feet to a point; and, 40.32 feet by a curve to the right, having a radius of 20.00 feet and a chord of North 88 32'10" East 33.84 feet to the point of beginning.

Containing 2.17 acres of land, more or less.

April 15, 1991  
DESCRIPTION TO ACCOMPANY ZONING VARIANCE PETITION  
11502-11510 REISTERSTOWN ROAD

This description taken from and intended to comply with a "Plan to Accompany Permit Nos. 79436, 79437, C-1289-85, BO-47863-70" prepared by W.L. Sadler-Surveyors, dated March 2, 1988, as shown on a Plan to Accompany Variance Petition prepared by D.S. Thaler & Associates, Inc., dated April 12, 1991.



#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 4th Date of Posting 1/17/92  
Posted for: Harvey E. Marshall  
Petitioner: Harvey E. Marshall  
Location of property: SE corner Reisterstown & Delight Rd.  
Location of Signs: Along westerly section of Delight & Reisterstown Rd., approx. 1/2 mile each way, on property of Petitioner.  
Remarks: \_\_\_\_\_  
Posted by: [Signature] Date of return: 1/24/92  
Number of Signs: 4

#### "DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD. 1/14/92

THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/14/92.

OWINGS MILLS TIMES,

S. Zeke Orlov  
Publisher

\$65.00  
+ 25  
90.00

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:  
Case Number: 92-255-A  
SEC Reisterstown Road at Delight Road  
11502-11510 Reisterstown Road  
4th Election District - 3rd Councilmanic Petitioner(s): Harvey E. Marshall  
Hearing Date: Monday, Feb. 3, 1992 at 10:00 a.m.  
Variance to permit 138 parking spaces in lieu of the required 230 spaces.  
LAWRENCE E. SCHMIDT, Zoning Commissioner of Baltimore County  
CMTJ:183 January 16, 1992

## CERTIFICATE OF PUBLICATION

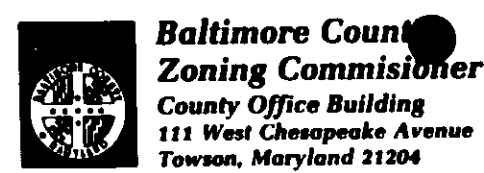
TOWSON, MD. 1116 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1116 1992.

THE JEFFERSONIAN.

Publisher

\$65.64



Date: 12/31/91

PUBLIC HEARING FEES

QTY PRICE

020 -ZONING VARIANCE (OTHER) 1 X \$175.00

LAST NAME OF OWNER: MARSHALL

TOTAL: \$175.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

receipt

Account: R-001-6150  
Number: H9200270

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

DATE: 12/31/91

Harvey E. Marshall  
11510 Reisterstown Road  
Owings Mills, Maryland 21117

RE:  
CASE NUMBER: 92-255-A  
SEC Reisterstown Road at Delight Road  
11502-11510 Reisterstown Road  
4th Election District - 3rd Councilmanic  
Petitioner(s): Harvey E. Marshall

Dear Petitioner(s):

Please be advised that \$ 92.64 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

ARNOLD JABLON  
DIRECTOR

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

JAN 08 1992

## NOTICE OF HEARING

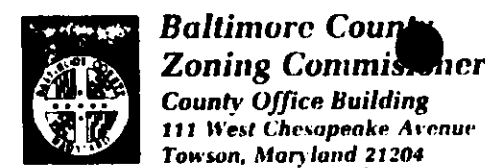
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CASE NUMBER: 92-255-A  
SEC Reisterstown Road at Delight Road  
11502-11510 Reisterstown Road  
4th Election District - 3rd Councilmanic  
Petitioner(s): Harvey E. Marshall  
HEARING: MONDAY, FEB. 3, 1992 at 10:00 a.m.

Variance to permit 138 parking spaces in lieu of the required 230 spaces.

LAWRENCE E. SCHMIDT  
Zoning Commissioner of Baltimore County

cc: Harvey E. Marshall



Date: 12/14/91

MARSHALL, Harvey (Cepha Howard)

VARIANCE

11502-10 Reisterstown Rd

30 corner Reisterstown Rd & Delight Rd

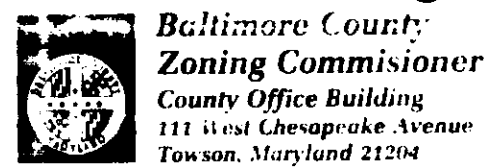
\$175.00

Please Make Checks Payable To: Baltimore County \$175.00  
BA CMTJ:183ADJ2 12 19 91

Cashier Validation

receipt

Account: R-001-6150  
Number: PD 4  
PD 3



Date:

Account: R-001-6150  
Number:

receipt

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

January 23, 1992

Mr. Harvey E. Marshall  
11510 Reisterstown Road  
Owings Mills, MD 21117

RE: Item No. 270, Case No. 92-255-A  
Petitioner: Harvey E. Marshall  
Petition for Variance

Dear Mr. Marshall:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments  
Date: January 23, 1992  
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this 19th day of December, 1991.

ARNOLD JABLON  
DIRECTOR

Received By:

JAMES E. DYER  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Harvey E. Marshall

Petitioner's Attorney:



O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

January 7, 1992

Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management  
County Office Building  
Towson, Maryland 21204  
Attn: James Dyer

RE: Baltimore County  
Zoning meeting of  
12/31/91  
Harvey E. Marshall Property  
S/E/C Reisterstown Road  
(MD 140) at Delight Road  
11510 Reisterstown Road  
#270

Dear Mr. Jablon:

We have reviewed the submittal for a variance to permit 138 parking spaces in lieu of the required 230 spaces, and offer the following:

In as much as we have no problem with the proposed addition to the building, we feel that every effort should be made to accommodate the additional parking needed.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

JOHN CONTESSABILE  
John Contessabile, Chief  
Engineering Access Permits  
Division

LB/es

cc: D.S. Thaler and Associates Inc.  
Mr. J. Ogle

RECEIVED

JAN 9 1992

ZONING OFFICE

My telephone number is 301-333-1350 (Fax# 333-1041)

Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 365-5451 D.C. Metro - 1-800-492-5822 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717



BUREAU OF TRAFFIC ENGINEERING  
DEPARTMENT OF PUBLIC WORKS  
BALTIMORE COUNTY, MARYLAND

DATE: January 16, 1992

TO: Mr. Arnold Jablon, Director  
Office of Zoning Administration  
and Development Management

FROM: Robert W. Bowling

SUBJECT: Traffic Comments

MEETING DATE: December 31, 1991

ITEM NUMBER: 270

- 1) The proposed three parking spaces adjacent to the office building "A" along the main access off Reisterstown Road should be eliminated.
- 2) The driveway access off Reisterstown Road should be eliminated and the parking spaces should be modified accordingly.
- 3) The internal travelways should be at least 22 ft. wide.
- 4) The proposed 24 ft. access to the restaurant off the main access off Reisterstown Road should be narrowed down to 22 ft. wide and the parking spaces adjacent to it should be at least 17 ft. long.

*Robert W. Bowling*  
Robert W. Bowling  
Traffic Engineer II

Baltimore County Government  
Fire Department



700 East Joppa Road, Suite 901  
Towson, MD 21204-5500

(301) 887-1500

JANUARY 6, 1992

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: HARVEY E. MARSHALL

Location: #11510 REISTERSTOWN ROAD

Item No.: 270 Zoning Agenda: DECEMBER 31, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]* Noted and Approved  
Planning Group Fire Prevention Bureau  
Special Inspection Division

JP/REK

BALTIMORE COUNTY, MARYLAND  
INTER OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: January 16, 1992  
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for December 31, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 262, 263, 264, 267, 268, 270 and 271.

For Case No. R-90-407 (Cycle 3, Item #8), County Review Group Meeting is required.

For Item 265, a County Review Group Meeting is required.

*Robert W. Bowling*  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:s

PLEASE PRINT CLEARLY

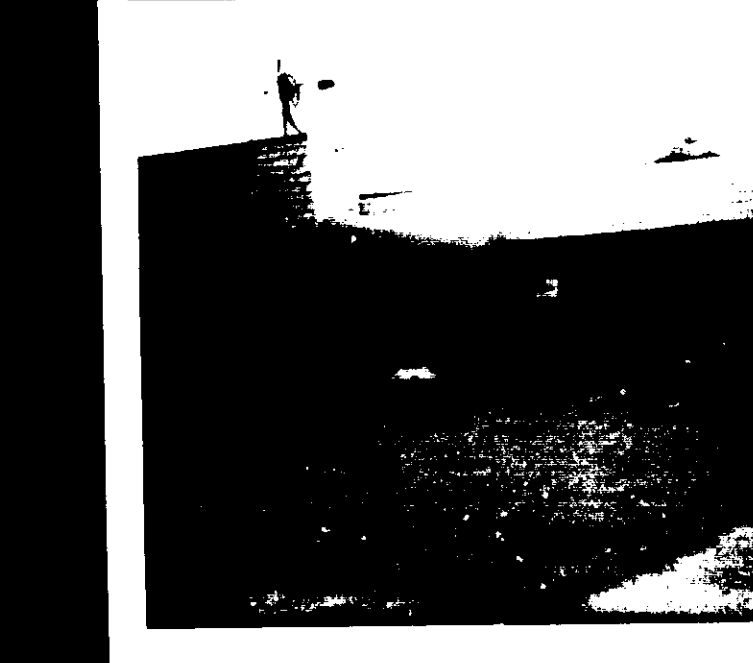
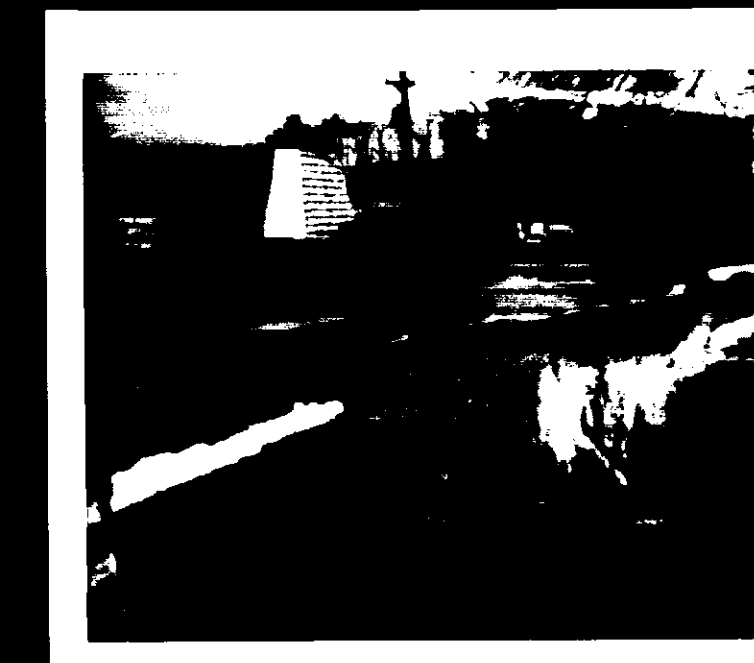
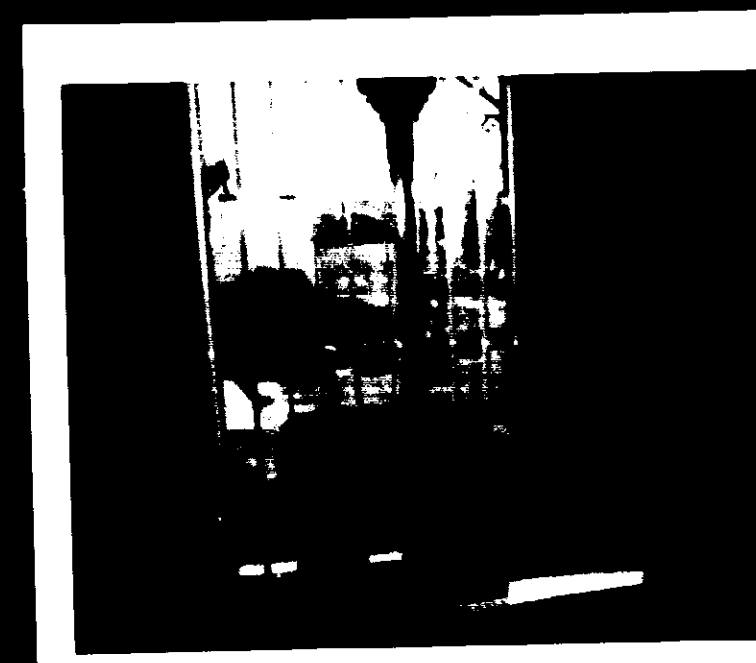
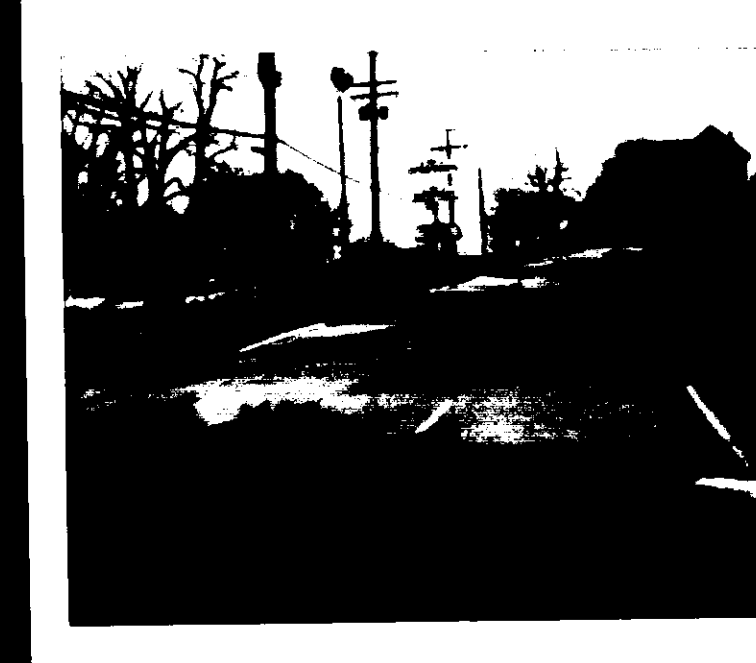
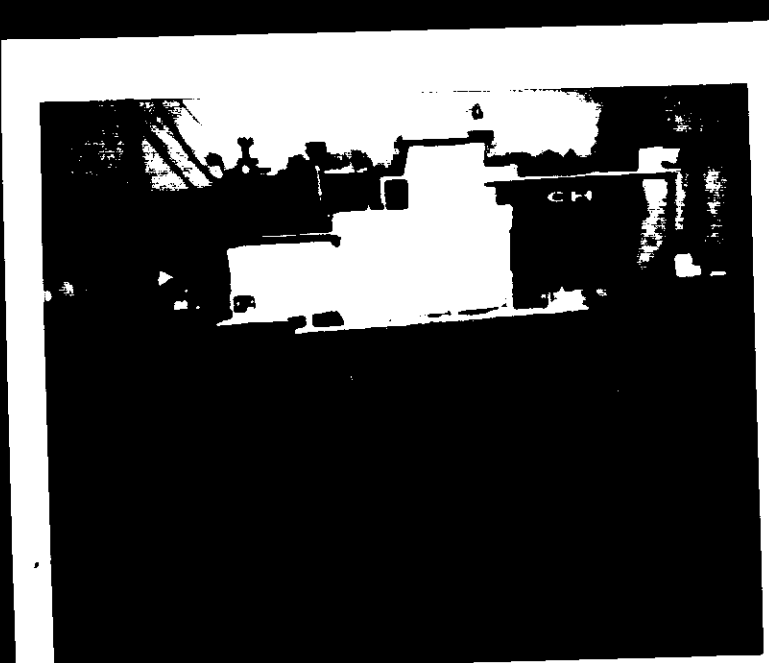
PETITIONER(S) SIGN-IN SHEET

Case 92-255-A

2/3/92

NAME	ADDRESS
<i>Michael A. Williams</i>	<i>716 Court Towers, 21214 873 100</i>
<i>Marion J. Smith</i>	<i>1434 Mayfield, Reisterstown, MD</i>
<i>Harvey Marshall</i>	<i>11510 Reister Rd. 21117</i>
<i>Ed J. Jule</i>	<i>10 Parks Ave., Cockeysville, MD 21030</i>
<i>Robert J. Bennett</i>	<i>11366 Reister Rd., Pikesville, MD 21112</i>
<i>David G. Haley</i>	<i>7115 Ambleside Rd., 21107</i>

Petitioner's  
Exhibits 2A-  
2G  
17 Photographs  
in  
Case 92-255-A









**200'-SCALE ZONING EXHIBIT**  
**11502-11510 REISTERSTOWN ROAD**  
BALTIMORE COUNTY 200'-SCALE ZONING MAPS N.W. 13-1, 14-1  
**D.S. THALER & ASSOCIATES, INC.**  
CIVIL ENGINEERS/LANDSCAPE ARCHITECTS/SURVEYORS/LAND PLANNERS  
7115 AMBASSADOR ROAD  
BALTIMORE, MARYLAND 21207  
(301) 944-ENGR (301) 944-3847  
SCALE: 1"=200'  
DATE: APRIL 12, 1991

92-255-A #270